

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Boris S. Elman et al.

Application No.: 09/932,202

Group Art Unit: 2614

Filed: August 17, 2001

Examiner: Olisa Anwah

For: AUTOMATED CONVERSATION
RECORDING DEVICE AND SERVICE

MS RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

THIRD DECLARATION UNDER 37 CFR § 1.131

Sir:

We, Boris S. Elman and Jesse Hefter, declare as follows:

1. We are the inventors named on currently pending U.S. Patent Application Serial No. 09/932,202, which is directed to an Automated Conversation Recording Device and Service.

2. We conceived of the claimed invention in the United States prior to February 27, 2001. More specifically, prior to February 27, 2001 we conceived of:

a. An apparatus for transmitting, receiving and recording two-way conversation data between at least two remote locations, comprising:

i. a wireless communication device;

ii. a memory coupled to the wireless communication device for storing two-way conversation data in digital form;

iii. a device interface for communicatively coupling the wireless communication device to a remote storage device and sending the stored two-way conversation data to the remote storage device;

iv. a user interface configured to allow a user of the wireless communication device to access, by way of a wireless network, the two-way conversation data stored in the remote storage device, the user interface including a plurality of data management functions that allows the user of the wireless communication device to manage, by way of the wireless network, the two-way conversation data stored in the remote storage device, the plurality of data management functions including functions for editing, translating, searching, linking, downloading, editing, playing back, converting, sending, archiving, and deleting the two-way conversation data stored in the remote storage device;

v. a secondary device interface that couples the memory with a secondary device to allow transfer of the two-way conversation data from the memory to the secondary device, wherein the secondary device interface includes

an attachment that physically connects the memory to the secondary device or is a wireless interface that allows data transfer between the memory and the secondary device;

vi. wherein the memory is an on-board memory; and

vii. wherein the memory is removable from the wireless communication device so that the memory can be attached to a secondary device.

b. A system for managing two-way conversation data occurring between at least two remote locations over a network, comprising:

i. a wireless communication device;

ii. a memory coupled to the wireless communication device for storing two-way conversation data in digital format;

iii. a storage location outside the memory;

iv. an interface between the memory and the storage location for transferring the two-way conversation data from the memory to the storage location; and

v. a user interface that allows a user of the wireless communication device to access, by way of a wireless network, the two-way conversation data in the storage location, the user interface including a plurality of data management functions that allows the user of the wireless communication device to manage, by way of the wireless network, the two-way conversation data stored in the storage location, the plurality of data management functions including functions for editing, translating, searching, linking, downloading, editing, playing back, converting, sending, archiving, and deleting the two-way conversation data stored in the storage location;

vi. a secondary device interface that couples the memory with a secondary device having the storage location to allow transfer of the two-way conversation data from the memory to the secondary device, wherein the secondary device interface includes an attachment that physically connects the memory to the secondary device or a wireless interface that allows data transfer between the memory and the secondary device;

vii. wherein the interface is configured to download at least a portion of the two-way conversation data from the storage location to the memory;

viii. wherein the memory is an on-board memory;

ix. wherein the memory is removable from the wireless communication device so that the memory can be attached to a secondary device;

x. wherein the two-way conversation data is audio data, and wherein the converting function is conducted by an audio-to-text converter that converts the audio data to text data;

xi. wherein the translating function is conducted by a text translation service that converts at least a portion of the text data from a first language to a second language;

xii. wherein the two-way conversation data is audio data, and wherein the translating function is conducted by an audio translation service that translates at least a portion of the audio data from a first language to a second language; and

xiii. wherein the user interface is configured to output at least one of text data and audio data.

c. A system for managing two-way conversation data occurring between a first communication device located at a first location and a second communication device located at a second location remote from the first location, the two-way conversations

occurring over a network having at least one storage location, wherein at least one wireless communication device can be connected to the network, comprising:

i. a data interface between the at least one wireless communication device and the at least one storage location for transferring data derived from the two-way conversations from the at least one storage location to the at least one wireless communication device; and

ii. a user interface, including at least one user-controllable data management function that allows a user of the at least one wireless communication device to access, by way of the network, the data in the at least one storage location, the user interface including a plurality of data management functions that allows the user of the at least one wireless communication device to manage, by way of the network, the data in the at least one storage location, the plurality of data management functions including functions for editing, translating, searching, linking, downloading, editing, playing back, converting, sending, archiving, and deleting the data stored in the at least one storage location;

iii. wherein the storage location is a computer system, and wherein the user interface allows the user to access the data in the computer system;

iv. wherein the computer system is divided into multiple user storage locations such that one of the user storage locations corresponds with an individual user;

v. wherein the data is audio data, and wherein the converting function is conducted by an audio-to-text converter that converts the audio data to text data;

vi. wherein the translating function is conducted by a text translation service that converts at least a portion of the text data from a first language to a second language;

vii. wherein the data is audio data, and wherein the translating function is conducted by an audio translation service that translates at least a portion of the audio data from a first language to a second language;

viii. wherein the user interface is configured to output at least one of text data and audio data.

3. *Exhibit A*, enclosed herewith, is a redacted portion of an Invention Disclosure that we prepared before February 27, 2001. The first page of the exhibit shows the initial portion of the Invention Record while the third page shows our signatures and the date on which we executed the Invention Record, namely July 28, 2000. Further, the third page also shows the signatures of two witnesses and the respective dates of execution, specifically August 1, 2000 and August 2, 2000, respectively. The fourth page has our written initials and is dated July 28, 2000. The fourth page also has the written initials of the witnesses and shows a date of execution of August 1, 2000 and August 2, 2000, respectively. *Exhibit A* provides further evidence that we conceived of the claimed invention prior to February 27, 2001.

4. Enclosed as *Exhibit B* is a copy of a document that was provided to us by Michael Stewart of the law firm of Rader, Fishman & Grauer, the law firm that prepared the present application. *Exhibit B* is a summation that accurately represents a portion of a telephone conversation that we had with the same legal counsel on January 30, 2001. Summations of other portions of the telephone conversation have been redacted from *Exhibit B*. *Exhibit B* provides further evidence that we conceived of the claimed invention prior to February 27, 2001. For example, *Exhibit B* describes translating a recorded conversation from French to another language, which evidences that we conceived, prior to February 27, 2001, of claim elements directed to data management functions such as translating two-way conversation data stored in a remote storage device. As another example, *Exhibit B* describes an attachment having a wireless networking capability that allows a recorded conversation to be moved to a secondary device, which evidences that we conceived, prior to February 27, 2001, of a secondary device interface that is a wireless interface that allows data transfer between memory and a secondary device.

5. Enclosed as *Exhibit C*, is a copy of a document audit trail history that was provided to us by Michael Stewart of the law firm of Rader, Fishman & Grauer, the law firm that prepared the present application. The audit trail history is descriptive of the dates and times when the electronic file containing the summation of the telephone conversation represented in part by *Exhibit B* was created, saved, and accessed. As shown in *Exhibit C*, the electronic file from which the contents of *Exhibit B* were obtained was created and modified only during a period beginning January 30, 2001 and ending February 2, 2001. More specifically, the document was stored in F:\docs\65632\41\misc under document filename r0103994.doc. "65632" represents the client number corresponding to a client identifier associated with the assignee of the instant application which is outside counsel's present client. "41" corresponds to the matter number for the present application as used by outside counsel. "misc" corresponds to a miscellaneous document stored within the document management system of outside counsel for the matter number associated with the present application. As shown in reverse chronological order by the bottom of the exhibit, the document was first created and saved on January 30, 2001 at 6:52pm. It was last saved on February 2, 2001 at 6:35pm. It was then next opened, but not saved on January 8, 2007 at 3:26pm, whereby *Exhibit C* not only corroborates Exhibit B, but also provides further evidence that we conceived of the claimed invention prior to February 27, 2001.

6. We worked toward reducing the claimed invention to practice from prior to February 27, 2001 until a filing of the present patent application with the U.S. Patent and Trademark Office by, *inter alia*, working with legal counsel for the original assignee of the present application in preparing and filing the patent application, including, at least, (1) participating in one or more telephone conversations with legal counsel with regards to preparation of the patent application (2) reviewing and providing comments on several draft specifications for the patent application during that time period, (3) reviewing and providing comments on several draft sets of drawings for the patent application during that time period, (4) reviewing a final draft of the specification and a final draft of the drawings towards the end of that time period in anticipation of, and with the expectation of, executing formal papers for the filing of the patent application, and (5) executing those formal papers and returning them to the legal counsel towards, or at the end of that time period. Based upon information provided to us

by Mr. Stewart and our own actual knowledge, activities of legal counsel for the original assignee of the present application during this period included:

- a. participating in at least one telephone conference call between us and outside legal counsel for the original assignee of the present application on January 30, 2001;
- b. preparing and completing informal draft drawings for the patent application in March 2001;
- c. preparing and completing formal draft drawings for the patent application in April 2001;
- d. revising the formal draft drawings for the patent application in April 2001;
- e. preparing a draft specification for the patent application in March and April 2001;
- f. submitting the draft specification and formal drawings to in-house legal counsel for the original assignee of the present application on April 26, 2001;
- g. revising the formal drawings for the patent application in July 2001;
- h. revising the specification for the patent application in July 2001;
- i. submitting the revised specification and formal drawings to in-house legal counsel for the original assignee of the present application on August 3, 2001; and
- j. filing the patent application with the U.S. Patent & Trademark Office on August 17, 2001.

7. We hereby submit *Exhibits B and C* as further evidence of our work toward reducing the claimed invention to practice from prior to February 27, 2001 until a filing of the present patent application with the U.S. Patent and Trademark Office. For example, we hereby submit that *Exhibits B and C* provide further evidence of the occurrence of the above-mentioned

telephone call between us and legal counsel for the original assignee of the present invention on January 30, 2001, the telephone call being for the purpose of assisting legal counsel with the preparation of the patent application.

8. Upon information and belief, we understand the present assignee of the invention disclosure for which *Exhibit A* is an attachment, by submission of *Exhibit A* herewith, does not intend to waive its attorney-client privilege as to the entire invention disclosure record. To the extent that we also have such a privilege we do not waive the attorney-client privilege as to the entire invention disclosure record.

9. Upon information and belief, we understand the current assignee of the present patent application, by submission of *Exhibits B and C* herewith, does not intend to waive its attorney-client privilege as to the entire summation and or any other records of the telephone conversation of January 30, 2001 between us and legal counsel. To the extent that we also have such a privilege we do not waive the attorney-client privilege as to the entire summation or other records of the telephone conversation.

We declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

6/13/07
Date

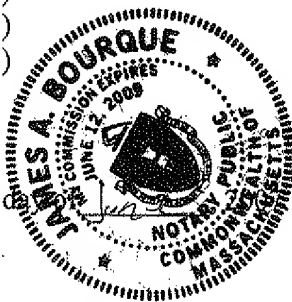
Boris S. Elman
Boris S. Elman

State of Massachusetts)

County of Norfolk)

Subscribed and sworn to me this 13 day of June

[Signature]
Notary Public



6/14/2007
Date

Jesse Hefter
Jesse Hefter

State of Massachusetts)

County of Norfolk)

Subscribed and sworn to me this 14 day of June

[Signature]
Notary Public

